IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Crl.MC.No. 1771 of 2007()

CC.1098/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER/A2:

THANU, S/O. MUTHU THANU,
KRISHNA TRAVELS, CITY COMPLEX
NAGERCOIL.

BY ADV. SRI.L.LINTON
SRI.A.RASHID
SRI.PRADEEP JOY

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1771 of 2007

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Dated this the 1st day of June, 2007

O R D E R

The petitioner is the second accused in a prosecution, inter alia, under Section 471 r/w. 120B I.P.C. The petitioner has not appeared before the learned Magistrate and the learned Magistrate has issued a non-bailable warrant to procure the presence of the petitioner. According to the petitioner, he is absolutely innocent. His failure to appear before the learned Magistrate earlier was on account of reasons beyond his control. The petitioner is now willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances that he prays that appropriate directions may be issued to the learned Magistrate under Section 482 Cr.P.C.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned

Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order to the learned counsel for the petitioner.

(R. BASANT)
Judge

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